Supreme Court, U.S.
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No. ____

IN THE
Supreme Court of the United States

LEONARD GULDMAN
AND L&M FIRING LINE, INC.,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Federal Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

May a court of appeals apply a lower court decision as precedential authority to render an appellate decision, and then affirm the lower court decision by applying the appellate decision as binding authority, without ever having reviewed the merits of the lower court decision?

PARTIES TO THE PROCEEDINGS

The caption of this case contains the names of all of the parties to the proceedings.

CORPORATE DISCLOSURE STATEMENT

L&M, the only corporate party to the proceedings, has no parent company and no publicly-held company owns 10% or more it sits stock.

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Leonard Guldman and L&M Firing Line, Inc. ("Guldman," "Petitioners," or "we/us") [1] respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit in this case.

Opinions Below

The opinion of the trial court in *United States v. Guldman* (3a-12a) [2] is reported at 343 F. Supp. 2d 1219 (Ct. Int'l Trade 2004). The opinion of the court of appeals in *United States v. Inn Foods, Inc.* (15a -25a), decided on authority of *Guldman*, is reported at 383 F.3d 1319 (Fed. Cir. 2004). The opinion of the court of appeals affirming *Guldman* on authority of *Inn Foods* (1a-2a) is unreported, but is available at 2005 U.S. App. LEXIS 2875.

In this petition, unless otherwise stated, "*Guldman*" refers to the above-cited trial court opinion and "*Inn Foods*" refers to the above-cited appellate decision.

Statement of Jurisdiction

The judgment of the court of appeals in this case (14a) was entered on February 18, 2005. The order of the court of appeals denying Guldman's petition for panel rehearing and for rehearing en banc in this case (13a) was entered on April 25, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Statutory Provisions and Rules Involved in the Question Presented

► 28 U.S.C. § 46(b) provides in relevant part:

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[1] Leonard Guldman is the president and principal owner of L&M Firing Line, Inc., a Colorado corporation located at 20 South Potomac Street, Aurora, CO 80012. L&M is primarily engaged in the retail sale of hunting and sports shooting firearms, equipment and accessories.

[2] Numbers followed by "a" refer to pages of the bound Appendix submitted with this Petition. Numbers preceded by "A" refer to pages of the Joint Appendix submitted to the court of appeals.